

SUMMARY: This document makes technical amendments to former Interstate Commerce Commission (ICC) regulations which were transferred to the FHWA in accordance with section 204 of the ICC Termination Act of 1995. These amendments are necessitated by changes in statutory citations and definitions, and the transfer of regulatory functions to the Secretary of the Department of Transportation (Secretary) or the FHWA.

Summary of Changes Part 367--Standards for Registration With States The words "Interstate Commerce Commission" or "Commission", which appear throughout this part, will be changed to "Secretary of Transportation" or "Secretary", as appropriate. References to "49 U.S.C. 10922 and 10923" in Secs. 367.1(b) and 367.4(a), and to "49 U.S.C. 10928" in Sec. 367.1(b) will be changed to "49 U.S.C. 13902." The reference to "49 U.S.C. 10521(a)" in Sec. 367.4(h) will be changed to "49 U.S.C. 13501."

Sec. 13902. Registration of motor carriers

(a) MOTOR CARRIER GENERALLY-

(1) IN GENERAL- Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with--

(A) this part and the applicable regulations of the Secretary and the Board;

(B) any safety regulations imposed by the Secretary and the safety fitness requirements established by the Secretary under section 31144; and

(C) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138.

(2) CONSIDERATION OF EVIDENCE; FINDINGS- The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

(3) WITHHOLDING- If the Secretary determines that any registrant under this section does not meet the requirements of paragraph (1), the Secretary shall withhold registration.

(4) LIMITATION ON COMPLAINTS- The Secretary may hear a

complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Board, the safety regulations of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.

`(b) MOTOR CARRIERS OF PASSENGERS-

`(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENTAL ASSISTANCE- The Secretary shall register under subsection

(a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

`(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE-

`(A) CHARTER TRANSPORTATION- The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that--

`(i) the recipient meets the requirements of subsection (a)(1); and

`(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

`(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

`(B) REGULAR-ROUTE TRANSPORTATION- The Secretary shall register under subsection (a)(1) a public recipient of

governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

`(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS- Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

`(3) INTRASTATE TRANSPORTATION BY INTERSTATE CARRIERS- A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

`(4) PREEMPTION OF STATE REGULATION REGARDING CERTAIN SERVICE- No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

`(5) JURISDICTION OVER CERTAIN INTRASTATE TRANSPORTATION- Subject to section 14501(a), any intrastate transportation authorized by this subsection shall be treated as

transportation subject to jurisdiction under subchapter I of chapter 135 until such time as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation, but in no case later than the 30th day following the date on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph.

`(6) SPECIAL OPERATIONS- This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

`(7) SUSPENSION OR REVOCATION- Intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

`(8) DEFINITIONS- In this subsection, the following definitions apply:

`(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE- The term 'public recipient of governmental assistance' means--

- `(i) any State,
- `(ii) any municipality or other political subdivision of a State,
- `(iii) any public agency or instrumentality of one or more States and municipalities and political subdivisions of a State,
- `(iv) any Indian tribe,
- `(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv), and

which before, on, or after the effective date of this subsection received governmental assistance for the purchase or operation of any bus.

`(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE- The term 'private recipient of government assistance' means any person (other than a person described in subparagraph (A)) who before, on, or after the effective date of this paragraph received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

`(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY-

`(1) PREVENTION OF DISCRIMINATORY PRACTICES- If the President, or the delegate thereof, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation to, from, or within such foreign country, the President or such delegate may--

`(A) seek elimination of such practices through consultations; or

`(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

`(2) EQUALIZATION OF TREATMENT- Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

`(3) REMOVAL OR MODIFICATION- The President, or the delegate thereof, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President or such delegate determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

`(4) PROTECTION OF EXISTING OPERATIONS- Unless and until the President, or the delegate thereof, makes a determination under paragraph (1) or (3), nothing in this subsection shall affect--

`(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the United

States-Mexico border as such zones were defined on the day before the effective date of this section; or

`(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

`(5) PUBLICATION; COMMENT- Unless the President, or the delegate thereof, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraph (1) or (3), together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraph (1)(B) or (3), and provide an opportunity for public comment.

`(6) DELEGATION TO SECRETARY- The President may delegate any or all authority under this subsection to the Secretary, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary may issue regulations to enforce this subsection.

`(7) CIVIL ACTIONS- Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

`(8) LIMITATION ON STATUTORY CONSTRUCTION- This subsection shall not be construed as affecting the requirement for all foreign motor carriers and foreign motor private carriers operating in the United States to comply with all applicable laws and regulations pertaining to fitness, safety of operations, financial responsibility, and taxes imposed by section 4481 of the Internal Revenue Code of 1986.

`(d) TRANSITION RULE-

`(1) IN GENERAL- Pending the implementation of the rulemaking required by section 13908, the Secretary may register a person under this section--

`(A) as a motor common carrier if such person would have been issued a certificate to provide transportation as a motor common carrier under this subtitle on the day before the effective date of this section; and

`(B) as a motor contract carrier if such person would have been issued a permit to provide transportation as a motor contract carrier under this subtitle on such day.

`(2) DEFINITIONS- In this subsection, the terms `motor common carrier' and `motor contract carrier' have the meaning such terms had under section 10102 as such section was in effect on the day before the effective date of this section.

`(e) MOTOR CARRIER DEFINED- In this section and sections 13905 and 13906, the term `motor carrier' includes foreign motor private carriers.

`Sec. 13501. General jurisdiction

`The Secretary and the Board have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier--

`(1) between a place in--

`(A) a State and a place in another State;

`(B) a State and another place in the same State through another State;

`(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

`(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

`(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

`(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.